



## REMARKS

Claims 13-14, 33-34, 56-57, and 80-81 were pending in the present application. Upon entry of this amendment, which is respectfully requested for the reasons set forth below, all of the rejected claims 13-14, 33-34, 56-57, and 80-81 will have been canceled without prejudice and claims 90-108 will have been added. No new matter has been added. Claims 90-91, 97-99, and 108 will be the only pending independent claims.

Applicants wish to thank the Examiner for the helpful telephone conversations held on December 1 and 28, 2000 with Applicants' representatives. The Examiner and Applicants' representatives discussed the patentability of the present invention in light of U.S. Patent No. 4,982,346 filed December 16, 1998 and issued to Girouard, et al. ("Girouard") and U.S. Patent No. 5,687,322 filed June 1, 1995 and issued to Deaton, et al. ("Deaton"). While no agreement was reached, Applicants appreciate the opportunity to discuss the present invention in light of the references.

Although the presentation of a new set of claims may have rendered the pending rejection of Claims 13-14, 33-34, 56-57, and 80-81 moot, Applicants believe that the following points should be made of record in regard to the pending rejection.

### A. Section 102 Rejection of Claims 13-14, 33-34, 56-57, and 80-81

Claims 13-14, 33-34, 56-57, and 80-81 stand rejected as anticipated by U.S. Patent No. 4,982,346 filed December 16, 1998 and issued to Girouard, et al. ("Girouard"). Applicants respectfully traverse the Examiner's Section 102 rejection.

As discussed below, Applicants respectfully submit that claims 13-14, 33-34, 56-57, and 80-81 are not anticipated by Girouard. The cited references do not teach or suggest all the features of any of independent Claims 13, 33, 56, and 80. Specifically, Girouard does not teach or suggest a feature generally directed to accessing "a date indicative of the last time said first discount changed" (emphasis added).

Applicants respectfully note that in the Office Action mailed December 17, 1999 (Paper No. 8, paragraph 3), the Examiner allowed Claims 13-14, 33-34, 56-57, and 80-81, in light of U.S. Patent No. 5,687,322 issued to Deaton et al. ("Deaton"), because "the specific limitation of [‘]the process further accesses a date indicative of the last time said first discount changed[’] make[s] these claims allowable over prior art." Applicants respectfully submit that the feature of "determining...a time of the first discount" similarly makes new independent Claims 90-91, 97-99, and 108, and claims dependent therefrom, allowable subject matter over Deaton and Girouard (emphasis added).

Girouard describes a Mall Promotion Network ("MPN") system with a "frequent shopping means...for increasing the probability that the sweepstakes participant win prizes as the frequency of their use of the system increases" (column 24, lines 9-16). MPN "could award coupons or prizes based on the number of visits [or] the amount of the purchases the customer makes to the mall..." (column 4, lines 25-29).

Accordingly, Applicants respectfully submit that Girouard does not teach or suggest either accessing "a date indicative of the last time said first discount changed," as recited in independent Claims 13, 33, 56, and 80, or "determining...a time of the first discount," as recited in new independent Claims 90-91, 97-99, and 108 (emphasis added).

Further, Girouard has no hint or suggestion of rewarding customers for visiting a retail establishment at least once within a predefined time period; in fact, Girouard clearly teaches away from that benefit of the present invention. Specifically, before it awards a new prize level, the MPN system expressly requires a predefined period of time (e.g., at least one day) to have passed since the customer's last use of the system (column 18, lines 47-55, column 19, lines 31-40, column 20, lines 11-22, column 24, lines 35-40).

Accordingly, Applicants respectfully submit that Girouard does not describe "increasing said first discount by a predefined value if said date of said last visit is within said predefined time period and if said date said first discount changed is prior to a second predefined time period," as recited in dependent Claims 14, 34, 56, and 81 (emphasis added). Similarly, Girouard does not describe features generally directed to "determining a second

discount...based on whether the first difference is less than a predetermined minimum transaction period” as in new claims 96, 98-99, and 108 (emphasis added).

Furthermore, the present invention relates to frequent shopper systems “that reward loyal customers with increasing discounts for regularly visiting a retail establishment” (specification, page 1, lines 12-14). Deaton does describe “award[ing] a lesser incentive package to good shoppers in order to maintain a consistency” (column 67, lines 7-8) and “maintaining the goodwill of good shoppers” (column 69, lines 13-14). However, Deaton clearly distinguishes its system from “marketing programs wherein users of a retail store’s services are targeted to attempt to induce the customers to make additional purchases from the retail store” (column 61, lines 41-44). In fact, the Deaton system is designed “to allow a retail store owner to target only non-customers” or “infrequent customers” and even describes software “to purge existing customers from a database” (column 61, lines 45-55). Deaton seeks “to detect infrequent customers such that marketing may be directed at those infrequent customers. Specifically, the techniques...identify customers who have not shopped since a predefined target date...” (column 63, lines 62-67) (emphasis added). Thus, Deaton clearly does not reward loyal customers with increasing discounts for regularly visiting a retail establishment, and in fact teaches away from “determining a first discount associated with the customer and a time of the first discount” as recited in all new independent Claims 90-91, 97-99, and 108 (emphasis added).

For the reasons stated above, Applicants respectfully submit that new Claims 90-108 are allowable subject matter.

**B. Conclusion**

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number (203) 461-7337 or via electronic mail at [dalderucci@walkerdigital.com](mailto:dalderucci@walkerdigital.com).

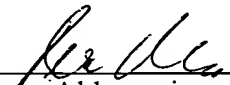
**C. Petition for Extension of Time to Respond**

Applicants hereby petition for a one-month extension of time with which to respond to the Office Action. Please charge \$110.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271. A duplicate copy of this sheet is enclosed for such purpose.

Respectfully submitted,

January 2, 2001  
Date

  
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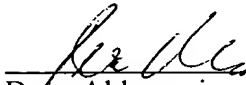
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